

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PAUL MANUEL C de BACA,

Plaintiff,

v.

No. CIV 15-0565 LAM

**CAROLYN W. COLVIN, Acting Commissioner
of the Social Security Administration,**

Defendant.

**ORDER GRANTING MOTION FOR ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on the parties' *Stipulated Motion for Award for Attorney Fees Under the Equal Access to Justice Act* (Doc. 29), filed July 19, 2016, wherein Plaintiff asks for an award of \$7,163.00 in attorney fees and \$400.00 in costs. The Court construes this as a joint motion for attorney fees under the Equal Access to Justice Act (EAJA). Having considered the motion, record in this case, and relevant law, the Court **FINDS** that the motion shall be **GRANTED**.

IT IS THEREFORE ORDERED that the parties' the parties' *Stipulated Motion for Award for Attorney Fees Under the Equal Access to Justice Act* (Doc. 29) is **GRANTED**, and Plaintiff is authorized to receive **\$7,563.00** for payment to Plaintiff's attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

IT IS FURTHER ORDERED that, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's attorney shall refund

the smaller award to Plaintiff pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 n.4 (2010) (explaining that, if a claimant's counsel is ultimately granted attorney fees under § 406(b) out of the claimant's benefit award, the claimant's attorney must refund to the claimant the amount of the smaller fee).

IT IS SO ORDERED.

Lourdes A. Martinez
LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent